



W.P.(MD) No.12485 of 2017

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

**W.P.(MD) No.12485 of 2017
and
W.M.P.(MD) No.9627 of 2017**

S.Sahupar Sadiq

... Petitioner

/vs./

1.The Inspector General of Registration,
No.100, Santhome High Road,
Foreshore Estate,
Pattinapakkam,
Chennai 600 028.

2.The Sub Registrar,
Rameshwaram,
Ramanathapuram District.

3.M.Nagoor Mohaideen

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 31/05/2017 passed in Memo by the 2nd respondent and quash the same and consequentially directing the 2nd respondent to register the



W.P.(MD) No.12485 of 2017

sale deed dated 18/05/2017 executed by the 3rd respondent in favour of the petitioner.

For Petitioner : Mr.J.Barathan

For R1 & R2 : Mr.S.P.Maharajan
Special Government Pleader

For R3 : No appearance

ORDER

The challenge in this writ petition is to the order of the second respondent dated 31.05.2017.

2. Heard Mr.J.Barathan, learned counsel for the petitioner, Mr.S.P.Maharajan, learned Special Government Pleader for the respondents 1 and 2. None appears for the third respondent.

3. The issue on this aspect is no longer *res integra*. a Division Bench of this Court in the judgment reported in **2020 (6) CTC 697 (N.Ramayee Vs. Sub Registrar, Registration Department and another)** had held that the Registering Officer cannot go into the title of the property, in respect of which the document



W.P.(MD) No.12485 of 2017

is presented. The enquiry by the Registering Officer is only limited to the extent to enquire about the executant and the claimant of the instruments of sale only and that the provision does not give the Registering Authority an absolute power to refuse the registration.

4. For better appreciation, relevant paragraph is extracted herein below:

“47. We are of the view that except as provided in the [Registration Act](#) and any other statute, the Registrar has no power to refuse to register a document. Though the object of the Act is to prevent fraud, such occasion arises only where some private properties are notified under the Tamil Nadu Private Forest Act. In such case, sale of such property without permission of the Collector of the District is void. Only when such notification is available in respect of any property, the Registrar can verify whether the sanction of the Collector is obtained or not. Similarly, whenever properties have been declared as forest land or elephant corridor, etc., and the notification is available with the Registrar, based on the above notification he can exercise power. Except the above, the Registrar has no power to refuse to register the document.

48. As already indicated, the purpose of registration is only to give a public notice. It is for the buyer or subsequent transferee to



W.P.(MD) No.12485 of 2017

WEB COPY

make reasonable enquiry. Doctrine of caveat emptor will also apply to every transfer. It is for them to verify the title of the property by making reasonable enquiry. At any event, subsequent transfer will always be subject to the rights already created. Therefore, it cannot be said that merely because agreement for sale is registered without obtaining decree of declaration that such agreement is void, subsequent transfer is prohibited and cannot be registered. We hold that as discussed in our judgement, Registrar has no right to refuse to register the subsequent document on the basis that agreement of sale was already registered in respect of same property. Accordingly, the reference is answered. Post the writ petition in W.P.No.674 of 2020 before the learned single judge for disposal.”

5. In the present case, under the impugned order the Registering Authority had refused registration indicating that the encumbrance certificate does not show clear title to the executant of the document, which by applying the principles laid down in the aforesaid judgment cannot be held to be a valid ground for refusal. In such event, I am inclined to set aside the order impugned herein and the same is accordingly set aside.



W.P.(MD) No.12485 of 2017

WEB COPY

6. In fine, the Writ Petition stands allowed. The petitioner is directed to present the document for registration and as and when the document is presented for registration, the Registering Authority shall not insist upon the petitioner to produce the document to prove the title and shall if it is otherwise in order register the same. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No
Internet : Yes / No
mm

26.11.2024

To

1.The Inspector General of Registration,
No.100, Santhome High Road,
Foreshore Estate,
Pattinapakkam,
Chennai 600 028.

2.The Sub Registrar,
Rameshwaram,
Ramanathapuram District.



WEB COPY



W.P.(MD) No.12485 of 2017

K.KUMARESH BABU, J.

mm

W.P.(MD) No.12485 of 2017

26.11.2024